

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY LAPINSKE, *et al.*,

Plaintiffs,

v.

CITY OF GRAND HAVEN,

Defendant.

CASE NO. 1:19-CV-162

HON. ROBERT J. JONKER

ORDER

This matter came up for a Rule 16 conference on July 30, 2019. During the conference, the Court addressed the Defendant's position that the Michigan Attorney General is a necessary party under FED. R. CIV. P. 19 (ECF No. 8). The parties focused their motion papers and oral argument on interpretation of state statutes, but in the Court's view federal law governs the issue. *See* 7 Wright, Miller & Kane, Federal Practice and Procedure § 1603 (3d ed. 2001) ("[T]he federal courts consistently have held that it is proper to apply federal standards under Rule 19 in all federal actions.") Based on all matters of record, and for the reasons stated on the record in open court, the Court denies the Defendant's motion without prejudice at this time.

The Court does believe that the Michigan Attorney General may have an interest in this case, either under the Charitable Trustees Powers Act, MICH. COMP. L. § 14.271, *et seq.*; or because of Plaintiff's claim under the Constitution of Michigan articulated in Count III of the Amended Complaint; or because of Plaintiff's claim more generally that actions by state and municipal actors violated state and federal constitutional provisions; or for other reasons. The Court believes the

State should be on notice of this case and have an opportunity to seek leave to intervene. *Cf.* 28 U.S.C. § 2403(b).

ACCORDINGLY, IT IS ORDERED:

1. Defendant's Motion for Joinder (ECF No. 8) is **DENIED** without prejudice.
2. The parties shall serve a copy of this Order on the Michigan Attorney General no later than **August 21, 2019** and shall file a proof of service.
3. Should the Michigan Attorney General wish to intervene in the case, a motion for leave to intervene is due no later than **September 30, 2019**. If the Michigan Attorney General does not seek leave to intervene by that date, the Court will assume that she does not wish to be a party in the case.

Dated: August 1, 2019

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE